

SUBJECT: Revising provisions governing transportation reinvestment zones

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Phillips, Martinez, Burkett, Y. Davis, Fletcher, Guerra, Harper-Brown, Lavender, McClendon, Pickett, Riddle

0 nays

WITNESSES: For — C. Brian Cassidy, Alamo Regional Mobility Authority (RMA), Cameron County RMA, Camino Real RMA, Central Texas RMA, Grayson County RMA, North East Texas RMA (*Registered, but did not testify*: Mary Calcote, Real Estate Councils of Texas; Randy Erben, Port of Corpus Christi Authority; Darrick Eugene, Board of Trustees of the Galveston Wharves; Jeff Heckler, Raba Kistner Infrastructure; Donald Lee, Texas Conference of Urban Counties; Stephen Minick, Texas Association of Business; Lawrence Olsen, Texas Good Roads Association; Beth Ann Ray, Austin Chamber of Commerce)

Against — Terri Hall, Texas TURF; Don Dixon

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

BACKGROUND: Current law allows municipalities and counties to establish transportation reinvestment zones (TRZs) in their boundaries to fund highway projects. Municipalities and counties may dedicate to a TRZ a tax increment from property taxes collected in the zone annually. For a municipality (Transportation Code, sec. 222.106) or county (Transportation Code, sec. 222.107) establishing a TRZ:

- the *tax increment base* of a local entity is the total appraised value of all real property located in a zone for the year in which the zone was designated;
- the *captured appraised* value is the total appraised value of all real property in a zone for a subsequent year, minus the entity's tax increment base; and
- a *tax increment* is the amount of property taxes assessed for one year on the captured appraised value of real property in the zone.

Pass-through financing allows public or private entities to construct state highway projects and receive payment from the Texas Department of Transportation (TxDOT) following completion of the project. Pass-through “tolls” are negotiated payments made incrementally to the entities building a road and are based on traffic volume on the new road. The payments are made as if tolls were being collected from motorists (though they are not) by the operators upon project completion.

Current law also allows local governments to dedicate a sales tax increment, defined as the portion or amount of tax increment generated from sales and use taxes attributable to the zone, to pay for projects authorized as part of a pass-through financing agreement.

DIGEST:

CSHB 1716 would make various changes to state laws governing transportation reinvestment zones. The bill would expand the range of projects that could be financed by a sales tax increment to include transportation projects in a transportation reinvestment zone. It also would amend current law to allow reinvestment zones for one or more transportation projects.

The bill would prohibit municipalities and county commissioners courts from rescinding a pledge to an entity until contractual commitments were satisfied. Sponsoring pass-through tolling agreements would be excluded as a purpose of establishing a transportation reinvestment zone.

A county resolution designating a reinvestment zone would have to include a finding that promotion of the project would cultivate the improvement, development, or redevelopment of the zone. A reinvestment zone designated by a county would terminate upon repayment of money owed under an agreement for a transportation project in the zone.

A local government could designate a TRZ outside its boundaries upon finding that the project would serve a public purpose and would benefit property and residents in the zone. The zone would have to be designated for the same project by contiguous local governments and would have to be subject to an agreement for joint administration by participants.

The bill would recodify the definition of a transportation project as a toll road, passenger or freight rail facility, ferry, airport, pedestrian or bicycle facility, intermodal hub, or transit system. It would repeal language

allowing counties to assess all or part of the cost of a transportation project against property in the zone.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 1716 would enhance the ability of counties and municipalities to use an existing tool, transportation reinvestment zones, to finance transportation projects. The bill would not signal a major shift in state policy; rather, it would provide greater clarity and flexibility to local governments using reinvestment zones to finance transportation improvements. The bill would take some worthwhile steps toward improving a transportation financing option available to local governments in an era of increasing congestion and limited resources.

Under the bill, a sales tax increment authorized by the 82nd Legislature in 2011 no longer would be confined to pass-through tolling agreements but could be used for any transportation project in a reinvestment zone. This measure would allow local governments within a reinvestment zone to commit a portion of local sales and use taxes collected in the zone to a transportation project. This would increase revenue collection options available to reinvestment zones that could then be committed to securing funding for transportation projects. These projects are in turn major drivers of economic development.

The bill also clarifies, updates, and refines the statutory language governing reinvestment zones to smooth potential legal snags that could hang up financing for projects in the zone. To this end, the bill changes current language to prohibit an entity from rescinding pledged revenue from a zone until all contractual commitments are resolved. Current law prohibits rescinding a pledge only if a transportation developer itself had pledged revenue for funding purposes. If enacted, the bill also would clarify that a reinvestment zone could be established to finance more than one transportation project. This is an important clarification for mixed-modal projects that have become priorities in many metropolitan areas in the state.

Current law has no provision sanctioning local governments to enter into formal agreements to finance a reinvestment zone project outside their jurisdiction. CSHB 1716 would allow a local government that would benefit from a transportation project outside its jurisdiction to create a zone and pledge funds to assist in securing financing for the project. This

change would recognize that transportation improvements, by their very nature, span jurisdictions, as do the benefits of such improvements.

Contrary to those who criticize reinvestment zones for lack of public input processes, reinvestment zones actually afford a great opportunity for input. The process for designating a zone is the same as that which local governments must follow to make decisions on a wide range of issues. Municipalities and counties must conduct public hearings and gather public input prior to designating a zone through an ordinance or resolution. If local residents object to a project, they will be given plenty of chances to oppose it publicly. In addition, many of the projects financed through reinvestment zones have been identified in broader transportation planning efforts that have their own public input processes.

While there may be other approaches to securing additional funding for highways, fee and tax increases have proved a political impossibility in recent sessions. In a context of fixed state and federal funds for transportation projects, it is critical to maximize options available for developing transportation projects.

Improving local governments' ability to effectively use transportation reinvestment zones would allow them to maximize available resources without tax increases. Despite some claims, the bill would not authorize a tax increase directly or indirectly. Although property values in a zone may increase as a result of economic development stemming from a transportation project, no property is taxed at a higher rate due to its inclusion in a reinvestment zone.

With regard to concerns about using toll roads, not a single reinvestment zone in the state has been used to finance a project with tolls. Yet there is nothing in state law preventing statewide streams of taxpayer dollars being used for building tolled roads. As such, it makes no sense to restrict the range of projects local governments could fund when they are equally affected by worsening congestion and inadequate infrastructure.

**OPPONENTS
SAY:**

Increasing opportunities to establish transportation reinvestment zones would represent an expansion of the troublesome practice of using local taxes to fund transportation projects that the state should be financing. Allowing local governments to commit a portion of sales taxes to transportation projects commits resources that otherwise would be available for police, fire, parks, and other local priorities. This, in effect,

devolves what should be a state responsibility to the local level without actually providing any additional funding for roads.

The problem is all the more salient as the 82nd Legislature in 2011 allowed local governments to use reinvestment zones to finance a wide range of projects, including toll roads. Under CSHB 1716, local governments would be able to commit local property and sales taxes to finance roads that are then tolled. This clearly would carve a path to an unfair double-tax on local residents. At the very least, transportation projects funded through reinvestment zones should be limited to public non-tolled highways.

Another trouble with enhancing the use of transportation reinvestment zones is that there is only a very limited public input process inherent in these arrangements. Without hearings at boards or commissions, the public is not given ample opportunity to comment on a zone. As such, reinvestment zones can be used to force through financing for extremely expensive and inefficient passenger rail projects and others that represent a poor use of taxpayer funds.

CSHB 1716 would continue the tradition of evading difficult issues confronting transportation finance in Texas. Expanding the use of reinvestment zones does not address the real problems facing the state – revenue streams that have been declining in relative value for decades. Reinvestment zones do not provide any additional state revenue to local entities and further a longstanding precedent of skirting difficult decisions about transportation funding for the state.

NOTES:

The companion bill, SB 1110 by Nichols, was passed by the Senate and favorably reported by the House Transportation Committee. The author intends to substitute the Senate bill for CSHB 1716 on the House floor.

The committee substitute for HB 1716 differs from the bill as filed by adding a provision allowing a local government to designate a transportation reinvestment zone outside its boundaries upon finding that the project would serve a public purpose and benefit property and residents in the zone.

A related bill, HB 1290 by Phillips, allowing two or more local governments to jointly administer reinvestment zones, was passed by the House and has been referred to the Senate Committee on Transportation.

